



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 9, 1998

Mr. Paul F. Wieneskie
Cribbs & McFarland
Counsel to the Euless Police Department
P.O. Box 13060
Arlington, Texas 76094-0060

OR98-0097

Dear Mr. Wieneskie:

You ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 111636.

The City of Euless Police Department (the "department"), which your office represents, received a request from an inmate for records "on arrest I.D. number 29591," concerning that inmate. You have submitted information which you contend is responsive to the request. You assert that the requested information is not subject to disclosure under sections 552.028, 552.101, and 552.108 of the Government Code. We have considered the exceptions and arguments you have raised and reviewed the submitted information.

You contend that the department is not required to comply with this request for information under section 552.028 of the Government Code. Section 552.028 of the Government Code provides that

(a) A governmental body is not required to accept or comply with a request for information from an individual who is imprisoned or confined in a correctional facility.

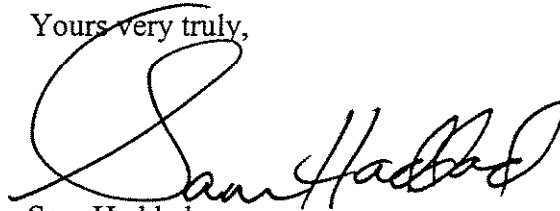
(b) Subsection (a) does not prohibit a governmental body from disclosing to an individual described by that subsection information held by a governmental body pertaining to that individual.

(c) In this section, "correctional facility" has the meaning assigned by Section 1.07(a), Penal Code.

¹See Act of June 1, 1997, H.B. 951, § 6, 75th Leg., R.S. (renumbering former section 552.027 as section 552.028 of the Government Code). You state that the request is from an individual incarcerated in a correctional facility. Consequently, the request is subject to section 552.028 of the Government Code. We conclude that section 552.028 gives you the discretion to either deny this open records request in its entirety or release all or part of the information at issue that is not otherwise confidential by law. Gov't Code § 552.007.¹

As we are able to make a determination under section 552.028, we do not address your claims under sections 552.103 and 552.108. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Sam Haddad
Assistant Attorney General
Open Records Division

SH/rho

Ref.: ID# 111934

Enclosures: Submitted documents

cc: Mr. David Dwight Bailey
J.V. Allred Unit # 660790
2101 F.M. 369 N.
Iowa Park, Texas 76367-6568
(w/o enclosures)

¹We urge the department to exercise caution in using its discretionary authority to release any of the requested information to the requestor. See Gov't Code § 552.352; Open Records Decision No. 339 (1982) (common-law privacy protects from disclosure information that reveals identity of victim of sexual assault).